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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,765	05/31/2001	Pierre Albou	1948-4752	8824
27123	7590	11/21/2003	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 345 PARK AVENUE NEW YORK, NY 10154			QUASH, ANTHONY G	
			ART UNIT	PAPER NUMBER
			2881	

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,765

Applicant(s)

ALBOU, PIERRE

Examiner

Anthony Quash

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/7/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/13/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Application may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's amendment, dated 8/7/03 has overcome the 112 rejections and the objections of the last office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa [226] in view of Kaplan [043]. As per claim 1, Ishikawa [226] teaches a motor vehicle light unit (10) comprising: a reflector (14) defining two foci (F1, F2) regions, the light reflector having a defined surface of an approximate ellipsoid (see figs. 1,3); a light source (12) in such a way as to produce a pool of reflected light in the other focal region; and a lens (16) in front of the other focal region for converting the pool of light into a beam and for projecting the beam the beam forward from the light unit (10). Ishikawa [226] also teaches filter (212,213,222,223), and filter-carrying means (8) mounting the filter (212,213,222,223) for moving the filter (212,213,222,223) between a first position out of the path of the light passing from the reflector (14) to the lens (16), and a second position in which a substantial part of the light passes through the filter (212,213,222,223). See Ishikawa [226] abstract, figs. 1-7, column 1, col. 2 lines 52-69,

and col. 3 lines 1-40. However, Ishikawa [226] does not specifically state the filter being opaque to visible light and transparent to infrared light. Kaplan [043] does teach the use of filter being opaque to visible light and transparent to infrared light. In addition, Kaplan [043] teaches the filter being only transparent to infrared light and ultraviolet light. See Kaplan [043] abstract and col. 6 lines 20-33. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a filter that was opaque to visible light and transparent to infrared light in order to prevent blindness caused by the scattering interaction of visible light with water droplets while providing a beam which aids in the detection of obstacles in front of the vehicle as taught by Kaplan [043]. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the filter be only transparent to infrared light when traveling in areas where the depth of the water is not of great concern. It also would have been obvious to have the filter be transparent only to infrared light when using light beam as a range finder for detecting the distance between objects in front of the beam during strong haze and fog conditions, since it was known that infrared light penetrates through haze and fog conditions, and reflects off objects to a much greater extent as compared to ultraviolet light. For additional evidence of this see [DE 3,932,216; FR 2,652,317] which was disclosed in applicants' IDS.

As per claim 3, Ishikawa [226] teaches the focal regions being an internal focal region and an external focal region, the light source (12) being located in the internal focal region for producing a pool of light in the external focal region, the filter being

located downstream of the external focal region. See Ishikawa [226] abstract, figs. 1-7, column 1, col. 2 lines 52-69, and col. 3 lines 1-40.

As per claim 5, Ishikawa [226] teaches the reflector (14) being disposed in relation to the lens (16) in such a way as to propagate light towards the lens (16) in a stream of light defining an edge, the filter-carrying means (8) being arranged to displace the filter to a position in which a surface of the filter extends along an edge of the stream of light. See Ishikawa [226] abstract, figs. 1-7, column 1, col. 2 lines 52-69, and col. 3 lines 1-40.

As per claim 6, Ishikawa [226] teaches the filter-carrying means consist of means for rotating the filter. See Ishikawa [226] abstract, figs. 1-7, column 1, col. 2 lines 52-69, and col. 3 lines 1-40.

As per claim 7, Ishikawa [226] teaches the filter rotating means (26) including a pivot (23) defining an axis downstream of the second position of the filter with respect to the direction of propagation of the light. See Ishikawa [226] abstract, figs. 1-7, column 1, col. 2 lines 52-69, and col. 3 lines 1-40.

As per claim 8, Ishikawa [226] teaches the second filter position, and an extent of the filter itself, so that they are such that, when the filter is in the second position, with some of the light radiation from the reflector to the lens bypassing the filter. See Ishikawa [226] abstract, figs. 1-7, column 1, col. 2 lines 52-69, and col. 3 lines 1-40.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eichler [147] in view of Kaplan [043]. As per claim 1, Eichler [147] teaches a motor vehicle light unit comprising: a reflector (10) defining two foci (F1, F3) regions; a light

source (12) in such a way as to produce a pool of reflected light in the other focal region; and a lens (16) in front of the other focal region for converting the pool of light into a beam and for projecting the beam the beam forward from the light unit (12).

Eichler [147] also teaches filter (20,30), and filter-carrying means (36) mounting the filter (20,30) for moving the filter (20,30) between a first position out of the path of the light passing from the reflector (10) to the lens (16), and a second position in which a substantial part of the light passes through the filter (20,30). See Eichler [147] abstract, figs. 1-4, col. 3 lines 15-65, column 4, and col. 5 lines 1-15. However, Eichler [147] does not specifically state the filter being opaque to visible light and transparent to infrared light. Kaplan [043] does teach the use of filter being opaque to visible light and transparent to infrared light. In addition, Kaplan [043] teaches the filter being only transparent to infrared light and ultraviolet light. See Kaplan [043] abstract and col. 6 lines 20-33. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a filter that was opaque to visible light and transparent to infrared light in order to prevent blindness caused by the scattering interaction of visible light with water droplets while providing a beam which aids in the detection of obstacles in front of the vehicle as taught by Kaplan [043]. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the filter be only transparent to infrared light when traveling in areas where the depth of the water is not of great concern. In also would have been obvious to have the filter be transparent only to infrared light when using light beam as a range finder for detecting the distance between objects in front of the beam during strong haze

and fog conditions, since it was known that infrared light penetrates through haze and fog conditions, and reflects off objects to a much greater extent as compared to ultraviolet light. For addition evidence of this see [DE 3,932,216; FR 2,652,317] which was disclosed in applicants IDS.

As per claim 2, Eichler [147] teaches a member carrying the filter and adapted for deformation under the effect of thermal deformations of the filter. See Eichler [147] col. 4 lines 40-50.

As per claim 3, Eichler [147] teaches the focal regions being an internal focal region (F1) and an external focal region (F3), the light source (12) being located in the internal focal region (F1) for producing a pool of light in the external focal region (F3), the filter being located downstream of the external focal region. See Eichler [147] abstract, figs. 1-4, col. 3 lines 15-65, column 4, and col. 5 lines 1-15.

As per claim 4, Eichler [147] teaches the reflector (10) defines a lamp hole, the light source (12) being a lamp placed in the lamp hole whereby to produce a shadow zone corresponding to the optical image of the lamp hole, the filter-carrying means (36) being arranged to displace the filter to a position substantially in the shadow zone. See Eichler [147] abstract, figs. 1-4, col. 3 lines 15-65, column 4, and col. 5 lines 1-15.

As per claim 5, Eichler [147] the reflector (10) being disposed in relation to the lens (16) in such a way as to propagate light towards the lens (16) in a stream of light defining an edge, the filter-carrying means (36) being arranged to displace the filter to a position in which a surface of the filter extends along an edge of the stream of light. See Eichler [147] abstract, figs. 1-4, col. 3 lines 15-65, column 4, and col. 5 lines 1-15.

As per claim 6, Eichler [147] teaches the filter-carrying means (36) consist of means (36,38) for rotating the filter (20,30). See Eichler [147] abstract, figs. 1-4, col. 3 lines 15-65, column 4, and col. 5 lines 1-15.

As per claim 7, Eichler [147] teaches the filter rotating means (36,38) including a pivot (34) defining an axis downstream of the second position of the filter with respect to the direction of propagation of the light. See Eichler [147] abstract, figs. 1-4, col. 3 lines 15-65, column 4, and col. 5 lines 1-15.

As per claim 8, Eichler [147] teaches second filter position, and an extent of the filter itself, so that they are such that, when the filter is in the second position, with some of the light radiation from the reflector to the lens bypassing the filter. See Eichler [147] abstract, figs. 1-4, col. 3 lines 15-65, column 4, and col. 5 lines 1-15.

As per claim 9, Eichler [147] teaches the lens (16) defining zones for disorganizing a light stream, the zones being located in the path of rays passing from the reflector (10) to the lens (16) and bypassing the filter (20,30). See Eichler [147] abstract, and figs. 1-4.

As per claim 10, Eichler [147] teaches the disorganizing zone being defined in annular regions of the lens (16). See Eichler [147] abstract, and figs. 1-4.

Response to Arguments

Applicant's arguments filed 8/7/03 have been fully considered but they are not persuasive. With respect to the applicant's argument that Kaplan [043] teaches away from the applicant's claim when it states that the filter is transparent to both ultraviolet

and infrared light, it is the examiner's view that Kaplan [043] does not teach away. In fact, Kaplan [043] infers that the invention could use two single frequency transmitters to obtain the depth of objects in the water and the distance from objects above the water. Therefore one would use a filter that was transparent only to infrared light and another filter that was transparent to ultraviolet light. This is made evident when Kaplan [043] states that, "Although the invention could be practiced by transmitting a single frequency in the infrared range." col. 6 lines 50-53 of Kaplan [043]. Here, Kaplan [043] clearly teaches that the filter absorbs visible light and permits only infrared.

In response to applicant's argument that Eichler [147] and Ishikawa [226] do not teach reducing the front lens surface area of an elliptical infrared light, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Conclusion


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Quash whose telephone number is (703)-308-6555. The examiner can normally be reached on M-F from 9 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee, can be reached on (703)-308-4116. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0956.


A. Quash 11/12/03

